

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 318 of 1998

in

SPECIAL CIVIL APPLICATION No 10228 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and

MR.JUSTICE R.P.DHOLAKIA

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DAHYABHAI BHALABHAI VAGHRI

Versus

ARVINDBHAI CHHOTABHAI PATEL

Appearance:

MR GR SHAIKH for Petitioners

MR NV ANJARIA for Respondent No. 1

CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE R.P.DHOLAKIA

Date of decision: 16/03/98

ORAL JUDGEMENT (Per: B.C.Patel,J.)

Petitioners have approached this Court inter alia stating that the respondents Nos.1 to 9 have committed breach of the order passed by the Court and hence, action under the provisions contained in the Contempt of Courts Act be initiated against them.

.RS 2

#. In view of the provisions contained in the Land Revenue Code, proceedings were initiated before the lower authorities and ultimately Special Secretary (Appeals), Revenue Department, passed an order which has been challenged by the present respondent No.1 before this Court. It appears that, the plot bearing Survey No.1090 as stated in the Special Civil Application by the respondent No.1 has been purchased from Rameshbhai and Dineshbhai. It appears that, there was plotting of the land and the respondent No.1 already constructed residential premises on plot Nos. A/6, A/12, A/13, A/14 and A/20. These houses are occupied by families. It is contended by the petitioners that though there is an order passed by the Court to maintain status-quo, the respondent No.1 has commenced the work of construction directly or other respondents permitted to commence the work of construction.

#. In response to notice, Mr.N.V.Anjaria, learned advocate appearing for respondent No.1 has pointed out that it is the petitioner No.1, who has filed a civil suit No.258 of 1995 in the Court of Civil Judge, (S.D.), Nadiad, inter alia contending that the present respondent No.1 transferred this land in favour of defendant Nos.2 to 22 of that suit. It is specifically stated in para 4 of the application exh.5 filed in the aforesaid suit that defendant No.1 (respondent No.1 herein) has already transferred the land in question in favour of respondents Nos.2 to 22 and the trial court ultimately vacated the ad-interim relief granted in favour of the plaintiffs. On behalf of the respondent No.1, it is pointed out to us that on 18-7-1994 by a registered Sale Deed, plots have already been transferred to various persons. The documents have been registered before Sub-Registrar, Nadiad. One Kevinkumar Kanubhai Patel to whom one of such plots was transferred, has again transferred the same in favour of Prahladbhai Ambalal Patel and Jagdishbhai Patel, namely the third parties. Even this Kevinkumar was not a party to the proceedings before the Court in Special Civil Application.

#. In view of the documents, it is clear that except the respondent No.1, other respondents were not party to

the proceedings against whom allegations are made that they are constructing. Except the plot transferred by Kevinkumar, no construction is being carried out at present by anyone. It is required to be noted that the suit is preferred earlier in time and it was within the knowledge of the petitioner that there is a transaction of transfer of property which he ought to have conveyed to the learned advocate. In the facts and circumstances of the case, no contempt as alleged in the petition is found to have been committed by any of the respondents. Hence, petition deserves to be dismissed and is accordingly dismissed. Notice discharged.

radhan/